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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,241	07/09/2003	Gunnar Back	3191/1K032-US1	2851
7590	03/05/2004		EXAMINER	
Darby & Darby P.C. 805 Third Avenue New York, NY 10022			BONCK, RODNEY H	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SX

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/617,241	BACK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rodney H. Bonck	3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 09 July 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-50 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6,16-18,26,28-30,32 and 46-50 is/are rejected.  
 7) Claim(s) 7-15,19-25,27,31 and 33-45 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 10/022,050.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

The following is a first action on the merits of application Serial No.10/617,241, filed July 9, 2003.

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/022,050, filed on December 13, 2001.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-6, 16, 18 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukushima('216). The Fukushima device is a hydraulic torque converter comprising a housing 16, a pump 20, a turbine 22, a rotary input element 10, a rotary output member 40,41, a bypass clutch 26, and a torsional vibration damper 34. The damper includes an input 42, an output 36, and energy storing means 34. Input 10 is connected to an "engine" and the torque converter includes a stator 24. The bypass clutch includes a disc-shaped member that is able to move axially between engaged and disengaged positions. The disc-shaped member is a piston, and a force-locking

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connection is provided between the piston and the housing at 32. The damper is in the power flow between the bypass clutch and the rotary output member. The input of the damper has two walls 42. The outer portions of walls 42 provide means for limiting the movability of the springs radially.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima('216) in view of either Macdonald et al.('878) or Radke et al.('757). Fukushima does not appear to specify use with "an automatic change-speed transmission". Torque converters and "lock-up" torque converters have long been used

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with automatic transmissions, however. See, for example, Macdonald et al. and Radke et al. Thus using the Fukushima device with an automatic transmission would not constitute a patentable modification of Fukushima. It is noted that claim 3 recites that the "input element" is the transmission shaft, presumably meaning the transmission input. The "output member" recited in claim 1 transmits torque from the input element to the pump, turbine or housing. This can be the case during engine braking.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima('216) in view of Meisner et al.('272). In Fukushima the damper is not disposed in the power flow path between the turbine and the output. The Meisner et al. device does show a damper 25 disposed in the flow path from the turbine 3 to the output 5. It would have been obvious to so dispose the damper in Fukushima, the motivation being to damp vibration from the turbine.

Claims 26 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima('216) in view of Macdonald et al.('878). In Fukushima it does not appear that the springs connect the first and second portions to permit axial movement. In Macdonald et al. the bypass clutch comprises a first portion 78 and the damper has a second portion 86, and spring 88 connects the first and second portions to permit axial movement. It would have been obvious to provide such an arrangement in Fukushima, the motivation being to facilitate the axial movement necessary for clutch engagement.

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Claims 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima('216) in view of Radke et al.('757). The Fukushima device shows a somewhat schematic view and does not show the claimed recesses and radial arms called for here. This is common damper structure, however, and is shown for example in Radke et al. in Fig. 8. It would have been obvious to provide this known arrangement in Fukushima, providing the springs in recesses between radial arms, the motivation being to confine the springs to act circumferentially.

### ***Allowable Subject Matter***

Claims 7-15, 19-25, 27, 31, and 33-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Back et al.('962) is the patent resulting from parent application Serial No.10/022,050. Reed('698) is cited to show retaining ring 20. Reik et al.('596), Honemann et al.(DE 199 63 236 A1) and the publication *Modern Automotive Technology* were cited by applicants in the parent application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (703)-

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308-2904. The examiner can normally be reached on Monday-Friday 7:30AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703)-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney H. Bonck  
Primary Examiner  
Art Unit 3681

rhb  
March 2, 2004